

DEPORTATION OF SRILANKAN TAMIL: POLITY

NEWS: 'India not a dharmshala to host foreign nationals': SC rejects Sri Lankan Tamil's plea for settling in India

WHAT'S IN THE NEWS?

The Supreme Court upheld the deportation of a Sri Lankan Tamil national linked to LTTE, affirming that foreign nationals have no right to settle in India and must comply with immigration laws. India, while offering humanitarian aid, prioritizes national security and is set to streamline its migration policy through the upcoming Immigration and Foreigners Act, 2025.

1. Supreme Court Verdict: Subaskaran Case

- The Supreme Court of India upheld the deportation of Sri Lankan Tamil national Subaskaran.
- He was convicted under the Unlawful Activities Prevention Act (UAPA), Section 38(1), for links with the banned LTTE.
- His sentence was reduced from 10 years to 7 by the Madras High Court in 2022.
- Subaskaran claimed fear of persecution in Sri Lanka and family presence in India, but SC refused to intervene in his deportation.
- The court ruled that the right to settle under Article 19(1)(e) applies only to Indian citizens.
- Though Articles 14 (equality before law) and 21 (right to life and personal liberty) apply to all persons, they don't confer settlement rights to foreigners.

2. Concept of Deportation

- Deportation is the forcible removal of foreign nationals from a country due to:
 - Violation of immigration laws
 - Criminal activities
 - National security concerns
- Extradition vs Deportation:
 - Deportation is a unilateral executive action by the host country.

- Extradition is a mutual legal process governed by international treaties.

3. Legal Framework in India

- Foreigners Act, 1946: Regulates entry, stay, and deportation of foreigners.
- Passport (Entry into India) Act, 1920: Prohibits entry without valid passport/visa.
- Registration of Foreigners Act, 1939: Requires long-term foreigners to register.
- Immigration (Carriers' Liability) Act, 2000: Penalizes transporters of undocumented migrants.

4. Supreme Court on Foreigners' Rights

- Foreigners do not have a fundamental right to reside in India.
- SC has consistently ruled that national sovereignty overrides humanitarian appeals.
- Article 21 protections apply, but without entitlement to stay or settle.

5. Key Supreme Court Precedents

- Sarbananda Sonowal v. Union of India (2005):
 - Struck down IMDT Act for encouraging illegal immigration.
 - Called unchecked migration a threat to India's sovereignty.
- Rohingya Deportation Case (2021):
 - Refused to stop deportation of 7 Rohingyas despite plea citing fear of persecution.
 - Recognized the right of the Indian government to regulate immigration.

6. Classifications of Migrants

Category	Definition	Rights	Indian Practice
Asylum Seeker	Claims protection but not yet a refugee	Protected during processing	No national asylum law; UNHCR handles cases
Refugee	Recognized by	Protected by 1951	India not a signatory,

Category	Definition	Rights	Indian Practice
	international law as fleeing persecution	Refugee Convention	but practices non-refoulement
Illegal Migrant	Enters or stays without legal documents	No refugee law protection	Treated as violators of immigration laws

7. Notable Refugee Groups in India

Group	Origin	Approx. Numbers	Government Response
Sri Lankan Tamils	Sri Lanka	~1 lakh	Camp shelter, no legal refugee status
Rohingyas	Myanmar	~40,000	Viewed as illegal; detention and deportation
Afghans	Afghanistan	~20,000	Humanitarian e-visas post-Taliban
Tibetans	Tibet (China)	~1 lakh	Refugee status, settlement areas (e.g., Dharamshala)
Chakmas & Hajongs	Bangladesh	~65,000	Resettled in Arunachal, some granted citizenship

8. Challenges in India's Immigration Management

- No unified refugee/asylum law: India deals with cases using ad-hoc or outdated frameworks.
- Overlapping statutes: Foreigners Act, Passport Act, Citizenship Act operate independently, creating confusion.
- Discretion-based implementation: Decision-making is often executive-led, not rights-based.
- Ambiguous deportation processes: No clear legal procedure for removal of illegal immigrants.
- Inconsistent stay policies: Temporary shelters lack national standards or uniformity.

9. Immigration and Foreigners Act, 2025 (Upcoming Reform)

- Aims to repeal colonial-era laws and establish a unified immigration system.
- Will define:
 - Visa categories
 - Deportation procedures
 - Grounds for refusal of entry (e.g., public health risk, forged documents)
 - Framework for appeals and legal redress

10. Balancing National Security and Humanitarianism

- Security rationale:
 - Threats from foreign terrorist networks (LTTE, ISIS).
 - Demographic stress and law enforcement strain in border states.
- Humanitarian response:
 - Despite not signing the 1951 Refugee Convention, India has welcomed Tibetans, Sri Lankans, Afghans.
 - Courts uphold Article 21 rights against torture, but do not extend right to settle.

11. Recommended Way Forward

- Enact the Immigration and Foreigners Act, 2025: Create legal clarity and administrative efficiency.
- Draft a Refugee and Asylum Law:
 - Define categories (asylum seekers, refugees, migrants)
 - Set rights and responsibilities
- Strengthen Border Screening:
 - Use biometric and digital tracking (e.g., Aadhaar-linked systems)
- Temporary Protection & Global Coordination:
 - Allow short-term e-visas in crisis zones.
 - Collaborate with UNHCR and third countries for resettlement.

- Regional Cooperation:
 - Develop a SAARC-level policy framework for refugee management.

12. Conclusion

- India's evolving immigration policy is an effort to balance sovereign control with humanitarian duty.
- Supreme Court judgments, recent deportation cases, and the Immigration and Foreigners Act, 2025 show a clear shift toward regulated, legal entry and stay, while retaining compassion for displaced persons in genuine distress.

Source: <https://timesofindia.indiatimes.com/india/india-not-a-dharmshala-to-host-foreign-nationals-sc-rejects-sri-lankan-tamils-plea-for-settling-in-india/articleshow/121268920.cms>